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In re Application of
Kaddani et al.
Application No. 10/558,386
PCT No.: PCT/SE04/00834
Int. Filing Date: 28 May 2004
Priority Date: 13 June 2003
Att. Docket No.: 43315-225720
For: Welding Process

COMMUNICATION

This is in response to the declaration of the inventors filed on 29 November 2005 (a copy of which was filed on 19 January 2007), which is being treated under 37 CFR 1.42.

BACKGROUND

This international application was filed on 28 May 2004, claimed an earliest priority date of 13 June 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 23 December 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 13 December 2005. Applicants filed, *inter alia*, the basic national fee on 29 November 2005.

On 21 November 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h). The Notification indicated that "An inventor listed on the international application is not shown on the declaration."

DISCUSSION

Review of the declaration of the inventors filed on 29 November 2005 reveals that joint inventor Ahmed KADDANI is indicated to be "deceased" and that Jan Smede has signed in the capacity of "legal representative of Mr. Kaddani." 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

Further inspection of the declaration filed on 29 November 2005 reveals that it identifies the citizenship, residence and postal address of the deceased inventor and of the legal representative, and is overall acceptable for purposes of compliance with 37 CFR 1.42 and 1.497(a) and (b). As such, the Notification of Missing Requirements mailed on 21 November 2006 was issued in error, and it is hereby VACATED.

CONCLUSION

The declaration is ACCEPTED under 37 CFR 1.42, without prejudice.

This application is being forwarded to the National Stage Processing Branch for further processing. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 29 November 2005.



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